

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

1. DOULAS SEALS, JR.,
an individual,

Plaintiff,

v.

Case No. CIV-2019- 170-SPS

1. TREYNARD EUGENE MCMATH,
an individual, and

2. SWIFT TRANSPORTATION CO
OF ARIZONA, LLC, a foreign limited
liability company, and

3. SWIFT TRANSPORTATION SERVICES,
LLC, a foreign limited liability company,
and

4. SWIFT TRANSPORTATION CO. INC,
a foreign corporation,

Defendants.

COMPLAINT

COMES NOW Plaintiff Douglas Seals, Jr. and for his causes of action against Defendants Treynard Eugene McMath, Swift Transportation Co of Arizona, LLC, Swift Transportation Services, LLC, and Swift Transportation Co. Inc. (collectively "Swift Transportation") alleges and states as follows:

1. That on or about June 6, 2017, Plaintiff Douglas Seals, Jr. and Defendant McMath were involved in a motor vehicle accident on I-35 in Carter County, Oklahoma.
2. That Plaintiff Douglas Seals, Jr. is a resident of Oklahoma.
3. That based upon information and belief, Defendant Treynard Eugene McMath is a resident of Kansas.

4. That Defendant Swift Transportation of Arizona, LLC is a foreign limited liability company and can be served through its registered agent, National Registered Agents Inc., 1833 South Morgan Road, Oklahoma City, OK. 73128.
5. That Defendant Swift Transportation Services, LLC is a foreign limited liability company and can be served through its registered agent, National Registered Agents Inc., 1833 South Morgan Road, Oklahoma City, OK. 73128.
6. That Defendant Swift Transportation, Inc. is a foreign for-profit business corporation doing business in Oklahoma and can be served through its registered agent, National Registered Agents Inc., 1833 South Morgan Road, Oklahoma City, OK. 73128.
7. The accident involved herein occurred in Carter County, Oklahoma, within the Eastern District of Oklahoma. This lawsuit is a civil lawsuit and the amount in controversy exceeds the statutory minimum prescribed in 28 USCA § 1332(a). This lawsuit is brought in the Eastern District of Oklahoma based upon complete diversity of citizenship between Plaintiff and Defendants.
8. That at all times relevant, Defendant Treynard Eugene McMath was the agent/employee of the above-named defendants and was acting in the course and scope of his authority and employment.

CAUSES OF ACTION

9. Based upon information and belief, on June 6, 2017, Plaintiff Douglas Seals, Jr. was driving his 2012 Chrysler 300 on Interstate I-35 traveling southbound in the outside lane when Defendant Treynard Eugene McMath changed lanes in his semi-tractor trailer and struck Plaintiff's vehicle. The impact directly caused Plaintiff's vehicle to

leave the roadway into the center median where he struck the cable barrier and came to an abrupt stop.

10. That Defendant McMath was negligent, including but not limited to:

- a. Failing to use ordinary care,
- b. Failing to keep a lookout consistent with the safety of others,
- c. Failing to yield the right of way,
- d. Failing to make a safe lane change,
- e. Negligence per se.

11. That Defendant McMath acted in reckless disregard of the rights of others and/or with gross negligence.

12. That at all times relevant to this lawsuit, Defendant McMath was acting in the course and scope of his employment to Swift Transportation.

13. That Swift Transportation is vicariously liable for the negligent acts of agents/employees acting in the course and scope of their authority and/or employment.

14. That Swift Transportation by acts of omission and commission was negligent, including but not limited to negligent hiring, retention, training and supervision of Defendant McMath.

Injuries and Damages

15. That the negligence of the Defendants was a direct cause of Plaintiff's injury and damages.

16. That Plaintiff sustained severe injury to his lower back at L4-5, sternum and right clavicle. Plaintiff's lower back injury at L4-5 resulted in surgery.

17. That Plaintiff has sustained injuries and damages, including but not limited to:

- a. Physical pain and suffering, past and future,
- b. Mental pain and suffering, past and future,
- c. Permanent injury,
- d. Physical impairment,
- e. Disfigurement,
- f. Loss of earnings/time,
- g. Impairment of earning capacity,
- h. Necessary medical care, treatment and services, past, in the amount of

\$230,693.90 incurred to date, including but not limited to:

Date	Provider	Billed
07/07/17	MMH	6,026.00
02/03/18	MMH	631.00
02/03/18	MMH ER Phys	325.00
07/07/17	Radio Serv of Ard	448.00
10/03/17	Dr. Snell Neuro Spec	200.00
11/07/17	Dr. Snell Neuro Spec	422.00
01/05/18	Dr. Snell Neuro Spec	100.00
01/30/18	Dr. Snell Neuro Spec	100.00
03/08/18	Dr. Snell Neuro Spec	150.00
10/23/18	Dr. Snell Neuro Spec	NO CHARGE
11/09/18 - 11/12/18	Dr. Snell Neuro Spec	29,665.00
12/06/18	Dr. Snell Neuro Spec	167.00
03/19/19	Dr. Snell Neuro Spec	227.00
12/07/17	OK Spine Hosp	3,851.00
01/18/18	OK Spine Hosp	6,726.00
01/30/18	OK Spine Hosp	1,200.00
02/26/18	OK Spine Hosp	4,423.00
11/09/18	OK Spine Hosp	130,889.42

06/14/17	Family Health Center of S OK	250.00
06/27/17	Family Health Center of S OK	250.00
07/17/17	Family Health Center of S OK	290.00
09/05/17	Family Health Center of S OK	250.00
12/20/17	Family Health Center of S OK	260.00
03/27/18	Family Health Center of S OK	265.00
04/18/18	Family Health Center of S OK	250.00
02/13/19	Family Health Center of S OK	128.00
06/08/17	Grand Lake Imaging	118.00
04/10/18	Grand Lake Imaging	41.00
07/06/18	Grand Lake Imaging	32.00
02/18/19	Grand Lake Imaging	196.02
07/13/17	Alliance Health Center PT	4,048.00
10/18/17	Alliance Health Center PT	2,412.02
11/09/17	Alliance Health Center PT	4,374.00
06/08/17	Alliance Health Center	1,953.00
04/10/18	Alliance Health Center	2,192.00
11/01/18	Alliance Health Center	848.00
02/18/19	Alliance Health Center	2,565.86
11/9/2018 PEND	Verbena IOM	10,907.89
11/09/18 PEND	Cortex Neuromonitoring	11,729.69
01/30/18	OK Diagnostic Imag	34.00
12/07/17	Dr. Andrade/Metro Anesht Cons	942.00
01/18/18	Dr. Andrade/Metro Anesht Cons	807.00
07/17/17	Diagnostic Imaging, Assoc.	PENDING
TOTAL		230,693.90

i. Necessary medical care, treatment and services, future.

WHEREFORE Plaintiff prays judgment against the Defendants for an amount in excess of \$75,000.00 together with attorney fees, costs and other relief as the Court may see fit.

Respectfully submitted,

Little, Oliver & Gallagher



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